

Child Find Requirements

IDEA Regulations

§ 300.111 Child find. (in part)

(a) General. (1) The State must have in effect policies and procedures to ensure that—

(i) All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated; and

(ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services.

Montana Code Annotated (MCA)

20-7-402. Special education to comply with board policies. (1) The conduct of special education programs must comply with the policies recommended by the superintendent of public instruction and adopted by the board of public education. These policies must ensure and include but are not limited to:

- (a) placement of a child with a disability in the least restrictive environment;
 - (b) due process for a child with a disability, including the appointment of a surrogate parent if necessary;
 - (c) use of an evaluation team to identify a child with a disability and to plan individual education programs;
 - (d) an evaluation process consistent with the requirements of the Individuals With Disabilities Education Act; and
 - (e) other policies needed to ensure a free appropriate public education.
- (2) The superintendent of public instruction shall promulgate rules to administer the policies of the board of public education.

History: En. 75-7802 by Sec. 420, Ch. 5, L. 1971; amd. Sec. 2, Ch. 539, L. 1977; R.C.M. 1947, 75-7802; amd. Sec. 2, Ch. 618, L. 1985; amd. Sec. 10, Ch. 249, L. 1991; amd. Sec. 99(4), Ch. 51, L. 1999; amd. Sec. 1, Ch. 255, L. 2005.

20-7-411. Regular classes preferred -- obligation to establish special education program. (1) A child with a disability in Montana is entitled to a free appropriate public education provided in the least restrictive environment. To the maximum extent appropriate, a child with a disability, including a child in a public or private institution or other care facility, must be educated with children who do not have disabilities. Separate schooling or other removal of a child with a disability from the regular educational environment may occur only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(2) The board of trustees of every school district or a state-operated adult health care facility providing special education services to its residents shall provide or establish and maintain a special education program for each child with a disability who is 6 years of age or older and under 19 years of age.

(3) The board of trustees of each elementary district shall provide or establish and maintain a special education program for each preschool child with a disability who is 3 years of age or older and under 7 years of age.

(4) (a) The board of trustees of a school district or a state-operated adult health care facility providing special education services to its residents may provide or establish and maintain a special education program for a child with a disability who is 2 years of age or under or who is 19 years of age or older and under 22 years of age.

(b) Programs established pursuant to subsection (4)(a) do not obligate the state, a school district, or a state-operated adult health care facility providing special education services to its residents to offer regular educational programs to a similar age group unless specifically provided by law.

(5) The board of trustees of a school district or a state-operated adult health care facility providing special education services to its residents may meet its obligation to serve persons with disabilities by establishing its own special education program, by establishing a cooperative special education program, by participating in a regional services program, or by contracting for services from qualified providers. A state-operated adult health care facility providing special education services to its residents may also meet its obligation by coordinating appropriate services with the resident's school district of residence, the local high school district, or both.

(6) The trustees of a school district or a state-operated adult health care facility providing special education services to its residents shall ensure that assistive technology devices or assistive technology services, or both, are made available to a child with a disability if required as a part of the child's special education services, related services, or supplementary aids.

History: En. 75-7805 by Sec. 423, Ch. 5, L. 1971; amd. Sec. 1, Ch. 123, L. 1971; amd. Sec. 2, Ch. 93, L. 1974; amd. Sec. 6, Ch. 539, L. 1977; R.C.M. 1947, 75-7805; amd. Sec. 3, Ch. 558, L. 1979; amd. Sec. 1, Ch. 258, L. 1987; amd. Sec. 4, Ch. 249, L. 1991; amd. Sec. 3, Ch. 356, L. 1993; amd. Sec. 99(4), Ch. 51, L. 1999; amd. Sec. 3, Ch. 255, L. 2005; amd. Sec. 2, Ch. 44, L. 2011.

20-7-414. Determination of children in need and type of special education needed. (1) The determination of the children requiring special education and the type of special education needed by these children is the responsibility of the school district, and the determination must be made in compliance with the procedures established in the rules of the superintendent of public instruction. The school district shall make available a free appropriate public education, in accordance with 20-7-411, to all children who are eligible under the Individuals With Disabilities Education Act and who reside in the school district.

(2) The trustees of a school district shall establish and implement policies and procedures for the conduct of special education that are consistent with the Individuals With Disabilities Education Act and with state laws and rules of the board of public education and the superintendent of public instruction.

History: En. 75-7811 by Sec. 429, Ch. 5, L. 1971; amd. Sec. 12, Ch. 539, L. 1977; R.C.M. 1947, 75-7811; amd. Sec. 4, Ch. 618, L. 1985; amd. Sec. 17, Ch. 11, Sp. L. June 1989; amd. Sec. 6, Ch. 249, L. 1991; amd. Sec. 4, Ch. 356, L. 1993; amd. Sec. 55, Ch. 633, L. 1993; amd. Sec. 4, Ch. 255, L. 2005.

Administrative Rules of Montana (ARM)

10.16.3125 LOCAL EDUCATIONAL AGENCY CHILD FIND RESPONSIBILITIES (1) Each local educational agency shall establish procedures consistent with the requirements under the Individuals with Disabilities Education Act and state administrative rules to ensure that all students with disabilities living within the boundaries of the local educational agency regardless of the severity of their disability are identified, located, and evaluated including a practical method to determine which students are currently receiving needed special education and related services.

(a) The procedures shall include a method to screen and develop criteria for further assessment for children between the ages of birth to 21 including all children in public and private agencies, and children who are highly mobile, migrant, homeless, or wards of the state.

(b) At a minimum, the procedures must:

(i) name the title of the person responsible for the coordination, implementation, and documentation of the child find procedures;

(ii) describe student identification activities including audiological, health, speech/language, and visual screening, and review of data or records for students who have been or are being considered for retention, delayed admittance, long term suspension or expulsion, waiver of learner outcomes (accreditation standards), regular education intervention and progress monitoring procedures and procedures for identification of children who are suspected of being a child with a disability even though they are advancing from grade to grade;

(iii) describe the role and responsibilities, if any, of other public or private agencies;

(iv) identify the procedures of the local education agency for identification of a student as having a specific learning disability. If a local educational agency adopts procedures to use a response to scientific, research based intervention in learning disability identification, it must identify the subject areas (language arts, math, reading), grades and schools for which such procedures apply; and

(v) ensure the collection and use of data are in accordance with the confidentiality requirements of 34 CFR 300.611 through 300.627.

(2) The local educational agency must provide parents with public notice of its child find procedures and the procedures it implements to ensure protection of the confidentiality of any personally identifiable information collected, used, or maintained under Part B of IDEA. Confidentiality must comply with the requirements of 34 CFR 300.610 through 300.627.

(3) If the student is parentally enrolled in a private elementary or secondary school outside the boundaries of the local educational agency in which the student is living, the local educational agency where the private school is located is responsible for child find activities, evaluations, and provision of services in accordance with the requirements of 34 CFR 300.130 through 300.144. The public elementary school district in whose boundaries the private elementary school is located shall implement the required services in accordance with 34 CFR 300.130 through 300.144 for elementary students. The public high school district in whose boundaries the private secondary school lies, shall implement required services in accordance with 34 CFR 300.130 through 300.144 for high school students.

(4) Local educational agencies shall coordinate child find activities for children ages birth through two with early intervention provider agencies. (History: 20-7-402, MCA; IMP, 20-7-403, 20-7-414, MCA; NEW, 1977 MAR p. 277, Eff. 8/26/77, ARM Pub. 11/26/77; AMD, 1983 MAR p. 1668, Eff. 11/11/83; AMD, 1993 MAR p. 1913, Eff. 8/13/93; AMD & TRANS, 2000 MAR p. 1048, Eff. 7/1/00; AMD, 2007 MAR p. 678, Eff. 5/25/07.)